

**SECTION 301 PETITION AGAINST THE CHINESE GOVERNMENT  
filed with the USTR**

**EXECUTIVE SUMMARY  
for the Executive Council, AFL-CIO, and Members of Congress**

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***Introduction***

The AFL-CIO has filed a Section 301 petition charging that the Chinese government persistently and systematically denies workers' rights, hurting U.S. workers and communities, while also preventing Chinese workers from exercising their internationally recognized rights at the workplace. Under Section 301 of the U.S. Trade Act, this egregious repression of workers' rights is considered an unfair trade practice, and the President has the authority to impose trade sanctions or take other action to induce the Chinese government to cease its violation of the rights of its own workers.

Two years ago, the AFL-CIO filed a similar petition, which the United States Trade Representative (USTR) refused to investigate. The USTR did not dispute the overwhelming evidence presented in the petition, but asserted that alternative actions by the President would advance workers' rights in China. There have been no such effective actions, and workers in China and the U.S. continue to bear the brunt of our nation's failure to act.

The new Section 301 petition, filed by the 9-million member AFL-CIO, again documents how the Chinese government and multinational corporations persistently violate the rights of China's factory workers. The petition also shows, through four methodologies, that the Chinese government's systematic repression of the human rights of its factory workers contributes to the loss of more than a million jobs in the United States.

In China, millions of child workers and forced laborers produce goods and services, many of them for export. Workers who protest or seek to form independent unions are fired, beaten, and imprisoned. China's labor market bears no resemblance to a free, competitive market. Millions of migrants from the countryside are denied the basic rights of urban residents in manufacturing towns and cities. They are so powerless that the average worker is simply not paid two or three months of earned wages. Meanwhile, corporations are reaping huge profits at the expense of China's factory workers who are paid wages as low as 15 to 50 cents per hour.

The Chinese government's violation of internationally recognized workers' rights constitutes an unfair trade practice, as defined by Section 301 of the U.S. Trade Act. The AFL-CIO calls on the USTR and the President to immediately take action to ensure that the Chinese government complies with internationally recognized workers' rights.

***The AFL-CIO's Previous Petition, and the President's Failure to Take Effective Action***

The new petition shows conclusively that the President has not taken effective action to promote workers' rights in the two years since the first petition was filed. Hence, the USTR's only ground for rejecting the petition has been negated. The President must therefore accept this new petition, investigate the Chinese government's non-compliance, and implement the effective economic incentives demanded by the AFL-CIO.

Within 45 days after the AFL-CIO files the petition, the USTR must decide whether to initiate an investigation against the Chinese government. The USTR may refuse to investigate only if it finds that (1) the Chinese government does not persistently deny worker rights, or (2) the Chinese government's denial of worker rights imposes no burden on U.S. workers. A refusal to investigate would defy facts that are obvious to American workers and that are fully documented in this petition.

If the USTR decides to investigate, it has at least one year to complete the investigation and decide whether and how to act against the Chinese government's violations of workers' rights.

### ***Section 301***

Section 301 of the Trade Act of 1974 (as amended) authorizes the President to impose trade sanctions and take any other action within his constitutional powers against countries that impose "burdens" on U.S. commerce by (a) violating trade agreements or (b) engaging in other "unreasonable trade practices."

Section 301 explicitly identifies several "unreasonable trade practices." One "unreasonable trade practice" is a country's persistent failure to enforce any of the following "internationally recognized worker rights":

- (1) Workers' freedom of association
- (2) Rights of organizing and collective bargaining
- (3) Freedom from forced or compulsory labor
- (4) Freedom from child labor
- (5) Standards of minimum wages, maximum hours, and occupational safety and health

Congress enacted the worker-rights provisions of Section 301 for the explicit purpose of ensuring that U.S. workers do not face unfair competition from workers overseas whose basic rights are violated, rectifying those violations, and preventing U.S. corporations from moving jobs offshore to exploit those workers. Congress believed that economic development based on sweatshop production benefited overseas elites and global corporations but not the majority of people at home or abroad.

The AFL-CIO's previous petition, filed two years ago, was the first to invoke the *worker-rights* provisions of Section 301. (Until then, U.S. businesses and unions had filed Section 301 petitions only against unfair *commercial* practices – such as violation of trade agreements, or failure to enforce the intellectual property rights of U.S. investors.)

## ***The Petition Establishes the Three Elements Required by Section 301***

### ***1. The Chinese Government and Global Corporations Persistently Deny the Workers' Rights listed in Section 301.***

There is overwhelming evidence that the Chinese government denies the workers' rights enumerated in Section 301. The petition amasses evidence from academics, the State Department, the ILO, labor unions, and human rights groups. The evidence clearly shows that:

**(a) *The Chinese Government and Global Corporations Deny Freedom of Association and Rights of Collective Bargaining.*** The Chinese government prohibits strikes, and relentlessly represses attempts to organize unions that are independent of the All-China Federation of Trade Unions (ACFTU). The ACFTU is controlled by the Chinese government. It is officially and legally subservient to the policies of the Party leadership and to local officials who profit from export enterprises. Workers who attempt to strike or organize independent unions are fired, arrested, imprisoned, beaten, and tortured.

**(b) *The Chinese Government and Global Corporations Exploit Millions of Child Laborers.*** Millions of children work in China, often in export factories. The numbers are growing, as adult workers increasingly protest inhumane treatment and factories seek cheaper, more pliable workers.

**(c) *The Chinese Government and Corporations Exploit Millions of Forced Laborers.*** Millions of prisoners are jailed without due process and brutally forced to work, often for export production. In addition, most of the workers in China's export sector are temporary migrants from the countryside. They often work under bonded labor, a form of forced labor. The Chinese government enforces a system of internal controls over migration that severely disadvantages migrant workers. Factory workers are permanently registered to live in their rural villages, and have no civil or political rights when they work temporarily in factory towns and cities. Upon arrival to the factories, migrant workers often become heavily indebted in order to pay large "deposits" and other fees to their employers. They lose the deposit and several months of wages if they quit without the employer's consent. They are thereby turned into bonded laborers.

**(d) *The Chinese Government Does Not Enforce Standards of Wages and Hours.*** Most manufacturers in China pay their workers much less than the minimum wage standards set by the central government. Government and corporate data purport to show that workers are paid the monthly minimum wage; but in fact many workers are required to work enormous numbers of overtime hours each month and are not paid minimum overtime wages. Factory managers further reduce actual wages below minimum requirements by excessive monthly deductions from wages and by withholding several months of wages, which workers lose upon quitting or firing. As a result, hourly wages in China are as low as 15 to 50 cents per hour.

**(e) *The Chinese Government and Corporations Do Not Enforce Occupational Safety and Health Standards.*** Most manufacturers in China fail to implement

standards of workplace safety and health. Government officials do not enforce those standards. As a result, the rate of illness and injury in China is the highest in world history. According to the State Department, official statistics reveal that industrial accidents killed 126,760 workers in 2005.

## **2. *China's Denial of Workers' Rights Imposes a "Burden" on U.S. Commerce.***

The petition shows that the Chinese government's denial of workers' rights gives a cost advantage to China-based producers. If the Chinese government enforced workers' rights, costs of manufacturing would rise between 10 percent and 77 percent. The petition uses four alternative methodologies to show that the unfair cost advantage of China-based producers displaces approximately 1,235,000 jobs in the United States.

(a) ***Firm-Level Data.*** Only two studies have attempted to create a database of firms that have moved their production from the U.S. to China. The studies, commissioned by the U.S.-China Security Review Commission, conclude that between 70,000 and 100,000 jobs were moved each year in the 1990s, and that the rate of runaway jobs accelerated after 2001. The aggregate loss of jobs is approximately 1,160,000.

(b) ***Product and Sector Data – using the President's own methodology.*** The President's 2004 Economic Report argued that the volume of China's exports to the United States is too small to account for the large job losses in U.S. manufacturing since 2001. The petition rebuts the President's argument. Using the President's own methodology, the petition shows that in seven sectors alone imports from China were large enough to displace more than 780,000 jobs.

(c) ***International Trade Commission Model.*** The petition presents estimates of the decrease in wages and production costs in China resulting from violations of worker rights. It then presents economic analysis by the Economic Policy Institute, showing the impact of this unfair cost advantage on U.S. jobs. EPI economists use the model created by the U.S. International Trade Commission to arrive at estimated losses ranging up to 1,235,000 jobs, under varying assumptions. This is the most rigorous methodology of the four presented by the petition.

(d) ***Bilateral Exchange Model.*** This model offers a "check" on the ITC model, using macroeconomic studies that calculate the amount by which U.S. production and jobs will change, if import prices change by a given amount. This method concludes that the Chinese government's violation of workers' rights causes job losses ranging up to 1.74 million jobs in the U.S. This indicates that the result generated by the ITC model – finding up to 1,235,000 jobs lost -- is a reasonable, conservative estimate.

## **3. *The USTR and the President Should Take Immediate Action***

As explained above, the USTR can impose trade sanctions or take any other action within the President's power to induce the Chinese government to cease its violation of worker' rights. The Trade Act also authorizes the USTR to negotiate bilateral agreements to achieve compliance

with workers' rights. The Act also requires the USTR to monitor and verify that compliance is achieved.

The petition demands that the USTR and the President take four actions:

**(a) Trade Remedies and Compliance Benchmarks -- Positive Economic Incentives to Enforce Workers' Rights.** The USTR must immediately implement a program of positive economic incentives to induce the Chinese government and corporations to comply with workers' rights. As this petition demonstrates, China consistently violates its fundamental international legal obligations with respect to workers' rights undertaken by the Chinese government. As this petition also demonstrates, China's consistent workers' rights violations are unreasonably and severely burdening and restricting U.S. commerce. This petition accordingly seeks the immediate termination of practices in violation of internationally recognized workers rights. If China fails to bring its labor standards into conformity with basic internationally recognized worker rights', the United States should pursue all available WTO-consistent remedies against China. The USTR should then reduce the trade remedies incrementally, if the Chinese government meets specific and verifiable benchmarks of enforcement of workers' rights. If the Chinese government backslides from specified benchmarks, the trade remedies should increase.

**(b) Binding Agreement.** If USTR finds that China is not fully applying labor laws and enforcing basic internationally recognized labor standards, the USTR shall negotiate a binding, WTO-consistent agreement with the Chinese government. The agreement should stipulate that the Chinese government will cooperate with the program of compliance and verification. Every six (6) months thereafter, the USTR shall assess if China is in full compliance with its workers rights obligations, and adjust remedies accordingly.

**(c) Corporate Disclosure of Working Conditions.** The President should implement rules that require U.S. corporations to disclose wages, hours, and working conditions of their affiliates and contractors in China. These disclosure rules are necessary to verify that the Chinese government and corporations are actually complying with workers' rights.